

PD-1015-18

RALPH WATKINS	§	IN THE TEXAS COURT	FILED
	§		COURT OF CRIMINAL APPEALS
V.	§	OF	2/26/2019
	§		DEANA WILLIAMSON, CLERK
THE STATE OF TEXAS	§	CRIMINAL APPEALS	

MOTION FOR LEAVE TO FILE POST-SUBMISSION MEMORANDUM BRIEF

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

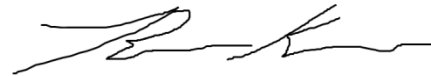
COMES NOW THE STATE OF TEXAS, by and through the undersigned Assistant Criminal District Attorney, and moves the Court to grant the State permission to file a post-submission memorandum letter-brief. In support thereof, the State would show the following:

1. This Case was submitted upon oral argument on February 20, 2019.
2. The State presented oral argument which varied from the argument presented in the State's brief. Specifically, the State argued that the materiality definition of "indispensable to the State's case" applied to inculpatory evidence prior to the Michael Morton Act, while "a reasonable probability that disclosure would lead to a different outcome" applied to exculpatory/impeaching/mitigating evidence. Accordingly, the State argued that the prior inculpatory definition continues to apply post-Morton. But the State also argued that an appellate court does not err by applying the prior exculpatory definition to inculpatory evidence because Rule 44.2(b) would require a reasonable probability of disclosure leading to a different outcome for a 39.14(a) violation to justify a reversal. Essentially, Rule 44.2(b) creates the same analysis as the prior exculpatory definition. This is a variance from the argument in the State's brief that *Meza v. State* and *In re Hawk* indicate possible legislative adoption of the prior exculpatory definition.

3. The State believes that a two-page letter-brief would clarify the State's current position for the Court.

WHEREFORE, PREMISES CONSIDERED, the State respectfully prays that this Honorable Court grant the State permission to file a two-page post-submission memorandum letter-brief explaining the State's position.

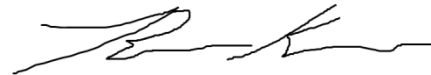
Respectfully submitted,



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CERTIFICATE OF SERVICE

I, the under-signed Assistant Criminal District Attorney, hereby certify that a true and correct copy of the above document was electronically served on Petitioner's attorney of record Jason Niehaus (jason@bndjlegal.com) and the State Prosecuting Attorney (information@spa.texas.gov) on this the 25th day of February 2019.



Robert Koehl